

**UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION**

In re:

**MELODIE LEA HOWARD,**  
  
**Debtor.**

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)  
)  
)  
)

**Case No. 20-10498  
Chapter 7**

**OBJECTION TO MOTION FOR RELIEF FROM STAY  
APPLYING 11 U.S.C. §362(e)**

NOW COMES, Yitzhak Miller, Creditor of Debtor and co-owner of the real property("Real Property") for which Fay Servicing, L.L.C., agent of US Bank Trust, N.A. as Trustee of HOF I Grantor for Trust 5, ("Lender" or "Movant") seeks relief from the bankruptcy stay, or adequate protection, and, through counsel, objects to the Motion for Relief from Stay filed by Lender, and in support of his Objection shows the Court the following:

1. The time for filing objections to Movant's Motion for Relief from Stay (Doc. #14) has not expired and this Objection is timely filed.
2. Mr. Miller is the spouse, currently separated, of the Debtor.
3. The Real Property for which the Lender seeks the lifting of the bankruptcy stay is owned by Debtor and Mr. Miller as tenancy by the entirety property under the laws of the State of North Carolina.
4. The Debtor's bankruptcy estate includes the Debtor's tenancy by the entirety interest in the Real Property pursuant to § 541 of the Bankruptcy Code.
5. No marital equitable property distribution order has been entered in the marital equitable property distribution case between Mr. Miller and Debtor that is currently pending in Greensboro, Guilford County, North Carolina, (see Item 9, Debtor's Statement of Financial Affairs).
6. Mr. Miller provided 100% of the payment for purchase of the Real Property, excluding the commercial mortgage loan proceeds, from assets that he owned prior to his marriage to Debtor.

7. The mortgage loan on the Real Property was made as a commercial, not residential, mortgage loan. The promissory note for the mortgage loan on the Real Property was executed solely by the Debtor.

8. Mr. Miller has made an offer to the Chapter 7 Trustee for purchase of the Debtor's interest in the Real Property, which offer, the Chapter 7 Trustee is currently considering and negotiating with Mr. Miller.

9. The mortgage arrearage arose as a result of hurricanes, storms, and flood damage to the Real Property which is located in Dare County, North Carolina at 23252 Sudie Payne Rd., Rodanthe, NC 27968.

10. Upon notice of the marital separation of Mr. Miller and Debtor, Lender has limited its communication with Mr. Miller. As a result, Mr. Miller has been limited in his ability to negotiate any restructuring of the commercial mortgage loan held by Lender.

11. Subject to the success of his offer to purchase Debtor's interest in the Real Property, Mr. Miller intends to offer the Lender adequate protection in the form of payment of the mortgage arrearage and current monthly mortgage payments.

12. It is in the best interest of the Debtor's bankruptcy estate for Mr. Miller to complete his purchase of Debtor's interest in the Real Property, and provide acceptable adequate protection payments to the lender.

WHEREFORE, Mr. Yitzhak Miller, Creditor and co-owner of the Real Property subject to Lender's Motion For Relief From Stay (Doc. #14) respectfully requests that the Court:

1. Hold a hearing on Lender's Motion for Relief from Stay, or for Adequate Protection, and Mr. Miller's Objection thereto, as tentatively scheduled for July 8, 2020.

2. Deny Lender's Motion For Relief From Stay pending completion of Mr. Miller's purchase of the Debtor's interest in the Real Property from the bankruptcy estate;

3. Order such adequate protection payments as the parties may agree and the Court may find appropriate, and that Lender shall be permitted to communicate freely with Mr. Miller regarding adequate protection and other issues concerning the mortgage loan on the Real Property;

4. Grant such other relief as the Court may find just and appropriate under the circumstances of the Motion for Relief from Stay and Mr. Miller's Objection thereto.

This the 29th day of June, 2020.

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/s/ Ralph W. Gorrell  
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Attorney for Yitzhak Miller  
NC State Bar No. 15875

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<b>MELODIE LEA HOWARD,</b>	)	<b>Case No. 20-10498</b>
	)	<b>Chapter 7</b>
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**CERTIFICATE OF SERVICE**

The undersigned certifies that this day the above Objection of Yitzhak Miller to Motion for Relief from Stay or for Adequate Protection was served upon the parties listed below by depositing a copy enclosed in a prepaid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service, or via the appropriate electronic service.

Phillip E. Bolton (Attorney for Debtor)  
622-C Guilford College Road  
Greensboro, NC 27409

Everett B. Saslow, Jr. (Chapter 7 Trustee)  
PO Box 989  
Greensboro, NC 27402

William Miller (Bankruptcy Administrator)  
PO Box 1828  
Greensboro, NC 27402

Jennifer Kim Brown (Attorney for Movant)  
Hutchens Law Firm L.L.P.  
PO Box 2505  
Fayetteville, NC 28302

This the 29<sup>th</sup> day of June, 2020.

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